

EXECUTIVE SECRETARIAT
ROUTING SLIP

*memo
Chano*

TO: **D**

		ACTION	INFO	DATE	INITIAL
1	DCI		X (w/o att)		
2	DDCI				
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4	D/ICS				
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9	Chm/NIC				
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13	D/Pers				
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SUSPENSE _____ Date _____

Remarks

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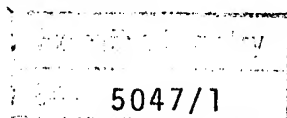
DCI
EXEC
REG

Executive Secretary
31 July 1984

Date

3637 (10-81)

DIRECTOR OF CENTRAL INTELLIGENCE



31 July 1984

MEMORANDUM FOR: NIO, Counterterrorism

FROM: DCI

Attached FYI.

William J. Casey

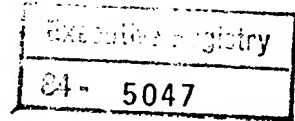
Attachment:

Letter dated July 18, 1984
from Harlan K. Ullman, CSIS

23 JUL 1984



Center for Strategic & International Studies
Georgetown University • Washington DC



July 18, 1984

Honorable William J. Casey
Director
Central Intelligence Agency
C.I.A. Building
Washington, DC 20505

Dear Mr. Casey:

Senior administration officials have declared terrorism as one of the major threats to American foreign policy. The latest CSIS Contingencies Paper "On Terror and Civil Liberties" by CSIS Senior Associate Robert H. Kupperman expands on that theme in several, highly important ways. First, Bob highlights the largely "invisible and ironic" threat posed by terrorism to our civil liberties, namely that overreaction in implementing counter-terrorist policies could provoke a cure as bad or worse than the affliction itself. Second, he suggests exploring the possibility of joint U.S. - Soviet initiatives to control international terrorism. These initiatives may lead nowhere or may only be marginally effective. But, they also might lead to containment of future terrorist related incidents before superpower crisis was precipitated.

This paper is timely and important. We hope it will make a useful contribution.

Sincerely,

A handwritten signature in cursive script that reads "Harlan K. Ullman".

Harlan K. Ullman
Project Director

C • S • I • S

CONTINGENCIES PROJECT

CENTER FOR STRATEGIC &
INTERNATIONAL STUDIES
GEORGETOWN UNIVERSITY



Center for Strategic & International Studies
Georgetown University • Washington DC

ON TERROR AND CIVIL LIBERTIES

by

Robert H. Kupperman
Senior Associate

July 16, 1984

Within the next several weeks, the 1984 Olympic Games and the two presidential nominating conventions will take place amidst widespread concern over possible terrorist violence. In the aftermath of the bombing of the U.S. Marine compound in Beirut in October 1983, the possibility of terrorist attacks against such potentially lucrative targets both at home and abroad has heightened sensitivities of government officials, some to the point of near-hysteria. But, behind the direct threat terrorism presents, there is a vicious and largely invisible irony lurking. That has to do with overreaction to the threat. Unless extreme caution is exercised, we can cause more problems for America by overreacting against terrorism without due regard for civil liberties and due process of law than we would cause by taking no action at all. This means that any policy initiatives, intended to deal with what is fundamentally an external and international terrorist threat, must not excessively impinge upon the constitutional rights of Americans.

Clearly, the administration needs to develop a comprehensive counter-terrorist policy that is both effective and mindful of the potential pitfalls and damage any overreaction can cause to our rights and privileges. But, to illustrate the potential risks and damage to which our counter-terrorist policies and liberties are subject, one need only examine the Administration's proposed anti-terrorist legislation now in Congress. Of this package, parts of which are innocuous, at least one provision is truly dangerous: a bill which would allow the Secretary of State, without providing any meaningful definition of terrorism, to declare groups and nations terrorists, and which would provide for criminal punishment of Americans who aid those groups or nations. This sort of open-ended legislation, while appealing on the surface, portends the abuse of our constitutionally guaranteed rights. And, it is unlikely to achieve its desired end of reducing international terrorism.

To understand the uneasy relationship between civil liberties and the government's understandable zeal to combat terrorism, we should note that Western societies like the United States are particularly susceptible to terrorist actions. In totalitarian states, there are relatively few opportunities for such activities, and if terrorism does occur, it is simply crushed as a matter of state prerogative. Americans, by contrast, accept a degree of disorder as part of the implicit price we pay for individual liberties. It is this combination of an open society with many leverage points for terrorism, and a society which places fundamental values in protecting human rights and civil liberties, that is the perfect breeding ground for terrorism.

A successful terrorist act itself can be viewed as an attack on the constitutional rights and processes that we take for granted. Those killed in a terrorist bomb explosion have certainly been deprived of their right to life, liberty, and the pursuit of happiness. But the real danger to our democratic way of life may not come from terrorism, however horrible any particular act or series of acts of violence might be. We must also guard against an overreaction to terrorism on the part of the government, law enforcement agencies, the intelligence community, and the citizenry as a whole.

Indeed, the most insidious form of terrorism is intended precisely to produce such an overreaction. Through well-publicized attacks against high-ranking officials, sensitive military and industrial targets, or even through random acts of violence in public places (which are all the more frightening for being random), terrorists turn the instruments of a democratic society against itself.

As terrorist acts occur, public and media pressure will grow correspondingly to "do something". That "something" often results in our giving up more than we have lost in the immediate tragedy. For example, a policy of doing proportionate harm to terrorists, or countries sponsoring terrorism, in response to an act of violence may be a sound policy in theory. So too may be covert preemptive measures taken against suspected terrorists. If they are to be successful, these activities demand utmost secrecy -- and herein lie the dangers of unethical behavior and subsequent sensationalized revelations.

Even the administration's proposed legislation itself runs the risk of justifying both legally and practically a policy of guilt by association. Like the McCarthy era, there will be a tendency to take out the frustration of being unable to deal with an invisible enemy by reaching for simplistic and constitutionally corrosive solutions.

This is not to say that action against terrorism is impossible or unnecessary. For example, there are certain chokepoints (nodes) in this country whose destruction would presage a national disaster. The electrical power grid is particularly susceptible to catastrophic regional failures that may not be repairable for weeks or months; this could occur as the result of a few select attacks against critical transformers and switching stations. The financial health of the United States depends on a teleprocessing network between banks and other institutions, a network whose overall and potential vulnerability has not yet been fully assessed. Sabotage against key railroad bridges could snarl large portions of this nation's rail transportation capability, which would be a serious if not fatal blow to our ability to mobilize the armed forces in the event of an international crisis or war. The destruction of critical pumping stations in the natural gas and petroleum pipeline system is also a major concern.

These potential national vulnerabilities do not require draconian corrective measures that necessitate the curtailing of civil liberties. They can best be remedied by prudent prophylactic steps: through physical protection, development of redundant systems, proper training of operating personnel, stockpiling of critical equipment, and organizing effective crisis management capabilities prior to an incident occurring.

The United States may also wish to undertake covert operations as a means of preempting or disrupting a terrorist attack. But again, the advantages of clandestine actions should be weighed against their potential political and constitutional drawbacks. Preemptive or retaliatory actions if mistargeted (poor intelligence) or bungled (amateur operations) have disastrous potential for political overreaction here and abroad. Either the action must be truly covert and held at a distance to be plausibly deniable, or it must be completely overt with the concurrence of Congress and the public at large. Our track record in keeping pro-active responses covert, with the latest example of mining the harbors of Nicaragua, is not very promising. To be effective, the covert mode of response has to be done correctly or not at all.

We must of course continue to develop a versatile intelligence apparatus. Intelligence collection and subsequent analysis, however, often tend to highlight trends which are already evident to any astute observer, missing the more critical activity beneath the surface. In fact, the greatest dangers loom when the noise level appears lowest. When terrorist groups appear to be shooting or bombing everything in sight, they do not have the time, resources, or manpower to undertake a major operation. It is during lulls that competent terrorist groups are best

able to devote their scarce resources to planning, logistics, and their own counter-intelligence for the most devastating attacks. Data collection and analysis will not be sufficient to predict these kinds of operations which the terrorists are at pains to hide. Attempts to penetrate terrorist organizations may force us into the position of looking for a "needle in a haystack" without any guarantees about the reliability of the informants or the information. And, if the information received is too reliable, it is unlikely that the informant will survive for very long.

On the other hand, counter-intelligence activities, including counter-surveillance efforts of potential terrorist targets, can greatly increase the probability of our learning about an impending event. We should put enormous effort in this neglected area both at home and abroad. Our greatest protection from attack is substantive knowledge. What we seldom recognize is that the projected "image" of a forewarned nation (even if only partially true) is itself a powerful tool. We need to develop and organize both our visible and invisible resources -- and then test them to prove that we are, in fact, a "porcupine" target.

Perhaps most importantly, we must realistically address the risk that a terrorist or other unconventional incident could trigger unintended confrontation with another nation, possibly with the Soviet Union. While it is encouraging to see the acceptance of a counter-terrorism responsibility by the administration, it is equally frightening to contemplate possible actions (and overreactions stemming therefrom) which increase international tension.

Consider, for example, the potential for escalation had we retaliated against Syria for its involvement in the Beirut massacre. A successful counterattack -- the deployment of an elite team to assassinate the Syrian officials in charge of planning and logistical support -- would likely not have resulted in unbridled military escalation. But suppose the "hit team" had failed; our elite forces caught, publicly tried, and executed. We could have provided a terrorism-sponsoring nation with a cause celebre in which they become the heroes and we the villains of the drama. The U.S. leadership would then have had to face the equally unpalatable options of appearing politically and militarily impotent or returning with a larger force. Given the immediate and often editorial scrutiny of a global media, the pressure for an instantaneous, decisive, military response -- action which might engage the Soviet Union as well -- would be great.

Any new policy must also address the pivotal role of the media in such incidents. The media molds public perceptions about the success or failure of any open confrontation, about the prowess of our enemies, and about the compe-

tence of our leaders in the face of the apparent threat. The American experience in the Iranian desert was presented not simply as a complicated maneuver that failed -- but as a debacle, a symbol of American command weakness and presidential bungling. Whether it is their intention or not, the media can transform small embarrassments into large ones, increasing the potential for even more risky military actions which could place the White House and the rest of the world at the edge of an abyss. Again, the necessity to avoid overreaction must constantly be paramount.

Finally, the United States must develop a capability to contain the escalatory pressure resulting from terrorist attacks abroad. We must be able to recognize threats -- even classes of threats -- in which we have a comity of interest with the Soviets. We ought to be able to develop jointly with the Soviets the techniques and institutions to contain crises at the margins. Indeed, if such arrangements are possible, their deterrent effect could be very positive. In fact, we may not be able to prevent or resolve successfully every unconventional attack in every troubled area on the globe, but we can and must assure that a single incident does not snowball into a cataclysmic series of events.

Countering terrorism is at best a "balancing act" -- on the one hand we seek effective operational means (intelligence collection, physical security, and police interdiction); on the other hand we run the risk of trampling upon our civil liberties by taking such measures. Were a serious terrorist attack to occur here, we might react convulsively and to our own detriment. Domestic intelligence collection and other infringements of privacy could explode, lists of undesirables might be drawn up, and calls for preventive detention could become deafening.

The need to take effective measures could be used to excuse virtually any behavior. Slowly, a new McCarthyism could metastasize within our society: on national security grounds, a White House might censor the more vexsome elements of the press; the need to monitor politically objectionable groups might be condoned as a temporary measure; and those who would speak out against the government's actions might be branded subversive.

These are not predictions of things to come; they are warnings of what might be if we do not deal thoughtfully with the problems of countering terrorism. Terrorism is real. We will have to act in legal and forceful ways to combat it.